IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION (LODG.) NO.2353 OF 2007

Mrs. Minaxi Mukesh Chokshi ..Petitioner.

Vs.

Union Bank of India and others ..Respondents.

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Mr. G.S. Hegde with Mr. M.A. Narvekar for the Petitioner.
Mr. A.D. Shetty with Ms. Rita Joshi for the Respondents.

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CORAM: **SWATANTER KUMAR, C.J. &**
DR. D.Y. CHANDRACHUD, J.

31st October, 2007.

P.C. :

1. The Petitioner in this Petition under Article 226 of the Constitution of India challenges the legality and correctness of the order of transfer dated 15th January, 2007 by which the Petitioner has been transferred from Mumbai to Nagpur. The contention raised on behalf of the Petitioner is that the order of transfer is a colourable exercise of power inasmuch as even the Petitioner has approached the Court earlier by filing a writ petition being Civil Writ Petition (Lodg.) No.268 of 2007 which was disposed of by the Court by an order dated 15th February, 2007 and direction was issued that the representation of the Petitioner shall be decided

within a period of two weeks and the orders passed shall be communicated to her. In furtherance to this order the Petitioner filed a representation before the authorities giving various grounds including her sickness. By order dated 1st March, 2007 the representation was partly accepted and the Respondents granted six months extension to the Petitioner. The case of the Petitioner is that a charge sheet has been served upon the Petitioner and in order to further punish the Petitioner she has been transferred to Nagpur. According to her she is suffering from various ailments. Besides this, her son is suffering from Psychiatric problems and she needs to attend him regularly and as such it is impracticable for her to go to Nagpur even if medical facilities are available at Nagpur for taking care of her.

2. However, this case of the Petitioner is not accepted by the Respondents and it is stated that she was granted six months extension only to resolve medical problems and to ensure that after expiry of the said period, she goes to Nagpur and it was only deferment of the transfer and the same was not cancelled. Counsel appearing for the Bank also relies upon a judgment of the Supreme Court in **Y.P. Sarabhai v. Union Bank of India** (AIR 2006

SC 2316) to contend that the orders of transfer by the Bank should not be normally interfered with by the Court. We are conscious of the fact that transfer is an exigency of service and the Courts would not normally interfere with the orders of transfer. However, the Petitioner has been able to make out circumstances which would require proper consideration by the Respondent authorities. While the ailments are patent from the records produced before us and in addition thereto, there are medical documents to show that her son Mihir is also a Psychiatric patient. The documents placed on record does require consideration by the appropriate authorities to the various aspects of the case and particularly when now the Petitioner is stated to have only six years service to her credit. It is not disputed before us that charge sheet served upon the Petitioner has already culminated into imposition of punishment by the competent authority against which she has filed an appeal. While declining to interfere in the order of transfer, we direct the Petitioner to make a proper representation supported by all the medical records which have been produced before the Court to the Respondents within one week from today. After such a representation is made, we expect the Respondents to pass appropriate orders within one month from the date of receipt of the

representation. Until that time, she will be permitted to continue at Bombay. In the event she has been relieved, she will be given due leave, if she wishes, of the nature which is due and permissible under the laws. We make it clear that she will not be disturbed for the period above stated.

The Petition is disposed of.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.